IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

1. KATHRYN SOSA, Plaintiff, v. 2. BILLY JOE FARMER and 3. SIMMONS FOODS, INC., Defendants.	Case No. 11-CV-803-TCK-FHM

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Simmons Foods, Inc. ("Simmons"), hereby submits its notice of removal of the action entitled, *Kathryn Sosa v. Billy Joe Farmer and Simmons Foods, Inc.*, pending in the District Court of Delaware County, Oklahoma, Case No. CJ-2011-214 (the "Action") to the United States District Court for the Northern District of Oklahoma.

1. Plaintiff, Kathryn Sosa, commenced the Action by filing a Petition on August 1, 2011. Simmons was served the Summons and Petition on December 1, 2011.

2. Pursuant to 28 U.S.C. § 1446 and LCvR81.2, a copy of the Petition, Summons, Answer of Simmons Foods, Inc., and the docket sheet are attached hereto as "Exhibit 1".

3. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b), as 30 days have not passed since Simmons received the Petition and Summons through service of process on December 1, 2011.

4. This Notice of Removal is based, pursuant to 28 U.S.C. § 1332(a), upon the original jurisdiction of federal district courts over all civil actions, wherein the matter

in controversy exceeds $75,000, exclusive of interest and costs, and is between citizens of different States. By virtue of this jurisdictional authority, the Action may be removed to this Court pursuant to 28 U.S.C. § 1441.

5. There is complete diversity of citizenship. At the commencement of the Action: (i) Plaintiff was a citizen of the State of Oklahoma; (ii) Simmons was a corporation organized and existing under the laws of the State of Arkansas, with its principal place of business in the State of Arkansas; and (iii) Billy Joe Farmer was a resident of Kern County, California. The parties' citizenship has remained unchanged since the Action was filed.

6. The Petition prays for "judgment against Defendants in amounts in excess of $75,000.00, plus costs, interest and any other relief the Court deems equitable and just."

7. Upon information and belief, Billy Joe Farmer has not been served with the Petition and Summons.

8. Promptly after filing this Notice of Removal, Simmons will give written notice thereof to Plaintiff and will file a copy of this Notice of Removal with the District Court Clerk of Delaware County, Oklahoma. A copy of the Notice of Removal to Federal Court is attached hereto as "Exhibit 2".

9. This Notice of Removal is filed subject to and with full reservation of rights. No admission of fact, law or liability is intended by this Notice of Removal, and all defenses, motions and pleas are expressly reserved.

WHEREFORE, Simmons removes the Action pending in the District Court of Delaware County, Oklahoma, to the United States District Court for the Northern District of Oklahoma, wherein it shall proceed as an action originally commenced therein.

Respectfully Submitted,
Simmons Foods, Inc.

By: P. Joshua Wisley

P. Joshua Wisley, OBA #19602
Conner & Winters, LLP
4375 N. Vantage Drive, Suite 405
Fayetteville, Arkansas 72703
(479) 582-5711
(479) 587-1426 – facsimile
jwisley@cwlaw.com
ATTORNEYS FOR DEFENDANT SIMMONS FOODS, INC.

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Removal was served via regular U.S. mail, postage prepaid, this 28th day of December, 2011, upon the following:

Jason B. Reynolds
Billy D. Griffin
Jeremy D. Looper
Griffin, Reynolds & Associates
210 SE 89th Street
Oklahoma City, OK 73149

P. Joshua Wisley, OBA #19602
Conner & Winters, LLP
4375 N. Vantage Drive, Suite 405
Fayetteville, Arkansas 72703
(479) 582-5711
(479) 587-1426 – facsimile
jwisley@cwlaw.com
ATTORNEYS FOR DEFENDANT SIMMONS FOODS, INC.

IN THE DISTRICT COURT OF DELAWARE COUNTY
STATE OF OKLAHOMA

FILED
AUG - 1 2011
CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

KATHRYN SOSA,

Plaintiff,

v.

BILLY JOE FARMER and SIMMONS FOODS, INC.,

Defendant.

Case No. CJ-2011-214

PETITION

COMES NOW the Plaintiff and for her cause of action states as follows:

1. That on or about February 4th, 2008, was driving her vehicle on US Highway 59 at or around Ballerina Drive in Grove, Delaware County, Oklahoma when she were struck by a semi-truck driven by Billy Joe Farmer an employee of Simmons Foods, Inc.

2. The collision described above was a direct result of the negligence of Billy Joe Farmer in that he failed to exercise reasonable care in operating the vehicle he was driving.

3. That at the time of the subject collision, Defendant Billy Joe Farmer was an agent, servant, and/or employee of Defendant Simmons Foods, Inc., and was acting in that capacity.

4. At all relevant times, Defendant Simmons Foods, Inc. employees, agents, and/or servants were acting within the scope or course of their employment for the Defendant Simmons Foods, Inc. and the Defendant Simmons Foods, Inc. is responsible for the negligent acts and/or omissions of their employees, agents, and/or servants.

EXHIBIT
1
Blumberg No. 5208

5. As a result of Defendant's conduct, Kathryn Sosa sustained permanent, irreversible severe bodily injuries, conscious pain and suffering.

WHEREFORE, plaintiffs individually pray judgment against Defendants in amounts in excess of $75,000.00, plus costs, interest and any other relief the Court deems equitable and just.

Respectfully submitted,

GRIFFIN, REYNOLDS & ASSOCIATES

Jason B. Reynolds, OBA No. 18132
Billy D. Griffin, OBA No. 17945
Jeremy D. Looper, OBA No. 21272
210 SE 89th Street
Oklahoma City, OK 73149
(405) 721-9500 Telephone
(405) 721-9503 Facsimile
ATTORNEYS FOR PLAINTIFF

ATTORNEYS' LIEN CLAIMED

IN THE DISTRICT COURT OF DELAWARE COUNTY
STATE OF OKLAHOMA

KATHRYN SOSA,	)
Plaintiff,	)
v.	) Case No. CJ-2011-214
BILLY JOE FARMER and SIMMONS FOODS, INC.,	)
Defendant.	)

SUMMONS

TO THE ABOVE-NAMED DEFENDANT: Simmons Foods, Inc.

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached Petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff.

Unless you answer the Petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 1 day of August, 2011.

CAROLINE WEAVER, COURT CLERK

By ______________________
Deputy Court Clerk

(Seal)

ATTORNEYS FOR PLAINTIFF:
Name: John W. Turner
Jason B. Reynolds
Billy D. Griffin
Jeremy D. Looper
GRIFFIN, REYNOLDS & ASSOCIATES
210 SE 89TH STREET
Oklahoma City, OK 73149

RECEIVED
DEC 07 2011

This summons was served on ______________________.
(Date of Service)

____
Signature of person serving summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT

FILED
DEC 21 2011
CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

IN THE DISTRICT COURT OF DELAWARE COUNTY
STATE OF OKLAHOMA

KATHRYN SOSA,	)	
Plaintiff,	)	
v.	)	Case No. CJ-2011-214 Judge Robert G. Haney
BILLY JOE FARMER and SIMMONS FOODS, INC.,	)	
Defendants.	)	

ANSWER OF SIMMONS FOODS, INC.

Defendant, Simmons Foods, Inc. ("Simmons"), states the following for its Answer to the Petition filed by Plaintiff, Kathryn Sosa.

1. Simmons admits Plaintiff was driving a vehicle on US Highway 59 in Delaware County, Oklahoma, on February 4, 2008. Simmons admits there was a traffic accident involving Plaintiff and Billy Joe Farmer ("Mr. Farmer"). Simmons admits Mr. Farmer was driving a tractor-trailer and was an employee of Simmons. Simmons denies the remaining allegations in Paragraph 1 of the Petition.

2. Simmons denies the allegations in Paragraph 2 of the Petition.

3. Simmons admits Mr. Farmer was working for Simmons at the time of the accident. Simmons affirmatively states that the accident was caused by the negligence of Plaintiff. Accordingly, Mr. Farmer and Simmons are neither responsible for the accident nor liable to Plaintiff for any alleged damages.

4. Simmons admits Mr. Farmer was working for Simmons, and acting within the scope and course of his employment, at the time of the accident. Simmons denies the remaining allegations in Paragraph 4 of the Petition. Simmons affirmatively states

that the accident was caused by the negligence of Plaintiff. Accordingly, Mr. Farmer and Simmons are neither responsible for the accident nor liable to Plaintiff for any alleged damages.

5. Simmons denies the allegations in Paragraph 5 of the Petition.

6. Simmons denies that Plaintiff is entitled to the relief sought in the prayer of her Petition.

7. Simmons denies all other allegations in the Petition that are not specifically admitted in this Answer.

AFFIRMATIVE DEFENSES

1. Comparative fault. Plaintiff's damages, if any, are the result of her own actions, negligence or other fault which contributed to or exceeded the fault, if any, of all other parties combined.

2. Plaintiff's damages, if any, are the result of the actions, negligence or other fault of third parties over whom Simmons has no control.

3. Sudden emergency.

4. Plaintiff's claims are barred by the applicable statutes of limitation.

5. Plaintiff failed to mitigate her damages, if any.

6. Assumption of risk.

7. Contributory negligence.

8. Illegality.

9. Negligence per se.

10. Plaintiff's claims are barred by estoppel, laches and/or waiver.

11. Insufficiency of process.

12. Insufficiency of service of process.

13. The claims asserted in the Petition do not provide the basis for an award of attorney's fees.

WHEREFORE, Defendant, Simmons Foods, Inc., prays Plaintiff take nothing by way of her Petition and that Simmons be awarded its costs, attorney's fees, and any additional relief the Court deems just and equitable.

Respectfully Submitted,
Simmons Foods, Inc.

By: P. Joshua Wisley

P. Joshua Wisley, OBA #19602
Conner & Winters, LLP
4375 N. Vantage Drive, Suite 405
Fayetteville, Arkansas 72703
(479) 582-5711
(479) 587-1426 - facsimile
ATTORNEYS FOR DEFENDANT SIMMONS FOODS, INC.

CERTIFICATE OF MAILING

I hereby certify that on the ~~13th~~ 21st of December, 2011, a true and correct copy of the above and foregoing instrument was mailed, first class mail, postage fully prepaid to:

Jason B. Reynolds
Billy D. Griffin
Jeremy D. Looper
Griffin, Reynolds & Associates
210 SE 89th Street
Oklahoma City, OK 73149

P. Joshua Wisley

Recommend 1k

CASE DETAIL

KELLPRO A trusted regional leader in government information management & technology solutions.

County:	Delaware - **County Last Updated: 12/27/2011 14:45**
Case:	CJ-2011-00214 Track this case SOSA, KATHRYN vs. FARMER, BILLY JOE
Date Filed:	08/01/2011
Amount Owed:	$0.00 (as of 12/27/2011 14:45)

CAUSE

CIVIL MONEY JUDGMENT OVER 10,000

Parties

Attorney	WISLEY, P. JOSHUA - FAYETTEVILLE AR	
Defendant	FARMER, BILLY JOE	Track this person
Defendant	SIMMONS FOODS, INC - COLUMBUS OH	Track this person
Judge	HANEY, ROBERT G.	
Plntf Atty.	LOOPER, JEREMY #21272 - OK CITY OK	
Plaintiff	SOSA, KATHRYN - MONKEY ISLAND OK	Track this person

Case Entries

Date:	Case Entries	Amount
08/01/2011	FILE AND ENTER PETITION	$163.00
	LAW LIBRARY ASSESSMENT	$6.00
	DISPUTE MEDIATION ASSESSMENT	$2.00
	OKLAHOMA COURT INFORMATION SYSTEM FEE - EFFECTIVE 7/1/04	$25.00
	LENGTHY TRIAL FUND FEE	$10.00
08/01/2011	ISSUING TWO SUMMONS	$10.00
12/21/2011	ANSWER OF SIMMONS FOODS, INC	
Total:		**$216.00**

Date:	Receipts:	Amount:
08/01/2011	R7-186662 LOOPER, JEREMY	$216.00

IN THE DISTRICT COURT OF DELAWARE COUNTY
STATE OF OKLAHOMA

KATHRYN SOSA, Plaintiff, v. BILLY JOE FARMER and SIMMONS FOODS, INC., Defendants.	)	Case No. CJ-2011-214 Judge Robert G. Haney

NOTICE OF REMOVAL TO FEDERAL COURT

TO: DELAWARE COUNTY DISTRICT COURT CLERK

PLEASE TAKE NOTICE that on December 28, 2011, Defendant, Simmons Foods, Inc., filed a Notice of Removal of the above-captioned case, with the Clerk of the United States District Court for Northern District of Oklahoma. A true and correct copy of the Notice of Removal is attached hereto as Exhibit 1 and is being filed herewith pursuant to 28 U.S.C. § 1446(d).

Respectfully Submitted,
Simmons Foods, Inc.

By: P. Joshua Wisley
P. Joshua Wisley, OBA #19602
Conner & Winters, LLP
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Fayetteville, Arkansas 72703
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ATTORNEYS FOR DEFENDANT SIMMONS FOODS, INC.

EXHIBIT 2
Blumberg No. 5208

CERTIFICATE OF MAILING

I hereby certify that on the 28th of December, 2011, a true and correct copy of the above and foregoing instrument was mailed, first class mail, postage fully prepaid to:

Jason B. Reynolds
Billy D. Griffin
Jeremy D. Looper
Griffin, Reynolds & Associates
210 SE 89th Street
Oklahoma City, OK 73149

P. Joshua Wisley

P. Joshua Wisley